

## EXHIBIT 9

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Eric Lipton, “Elon Musk Is a ‘Special Government Employee.’ What Does that Mean?” N.Y. Times (Feb. 5, 2025), <https://www.nytimes.com/2025/02/05/us/politics/elon-musk-special-government-employee-explainer.html>.



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## *Elon Musk Is a ‘Special Government Employee.’ What Does That Mean?*

Ethics laws make it a federal criminal offense to take actions that benefit family businesses — even for so-called special government employees, unless a waiver is issued.



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**By Eric Lipton**

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The White House this week, upon repeated questions from the news media, said that Elon Musk is now serving as what it called a “special government employee,” as he helps radically revamp federal government operations. That would give Mr. Musk a kind of hybrid status somewhere between a private citizen and a full-time federal staff member.

A White House spokesman told The New York Times on Monday that Mr. Musk has been given this status as a special government employee, but no official records have been released documenting it.

### **What is a special government employee?**

A special government employee is an executive branch appointee named to “perform important, but limited, services to the government, with or without compensation, for a period not to exceed 130 days” during a one-year period.

Most often, people in this role are serving on special advisory committees that rely on private sector experts to help shape government policymaking, such as determining what kinds of pesticides are safe to use on foods.

But senior executive branch advisers have held such positions in the past. Huma Abedin worked during the Obama administration as a State Department adviser while also holding a private sector job. Scott Atlas, a doctor, advised President Trump on issues related to the pandemic during his first term.

## **What are the rules for such employees?**

Federal law does not block a special government employee from playing a role in a general policy choice that happens to impact someone's financial holdings, such as a new tax policy that affects millions of Americans.

But as a special government employee, Mr. Musk is subject to a federal criminal law that blocks him from taking action in a "particular matter" that has a direct benefit to his own financial interest or that of his family, unless he has received a special waiver from the federal government.

The law "prohibits government employees from participating personally and substantially in official matters where they have a financial interest," not only for themselves but for "their spouse, minor child, general partner and certain other persons and organizations," according to the Office of Government Ethics.

This prohibition even applies to volunteers for temporary organizations the federal government sets up, a separate federal law says. That would have applied to Mr. Musk even before he took on a more formal role as a special government employee.

The ban would also limit Mr. Musk's ability to intervene with federal agencies on behalf of any of his companies, if he has worked with the same agency in his capacity as a special government employee.

The law would require Mr. Musk, even as a special government employee, to file a financial disclosure that details all of his assets and sources of income. That report would most likely remain confidential, if Mr. Musk was not being paid for his work

and it was a temporary post.

## **Who determines if the rules are being followed?**

It is typically up to federal government ethics officials — and potentially prosecutors — to examine if a federal employee has wrongly taken action on a particular matter that benefits family financial holdings.

## **Can Mr. Musk get a waiver for these rules?**

Special government employees can be granted an exemption from the conflict-of-interest ban by a full-time federal official who is helping supervise the work.

But Mr. Musk would have to receive “in advance a written determination made by such official that the interest is not so substantial as to be deemed likely to affect the integrity of the services which the government may expect from such officer or employee,” the law says.

If Mr. Musk is only now getting this status — two weeks after the start of the new administration — his actions may have also violated federal criminal conflict-of-interest law, given the work he has already done, said Norman Eisen, who served as a White House ethics lawyer during the Obama administration and who has also been a frequent critic of Mr. Trump. The waivers do not cover actions taken before they were issued.

Mr. Musk could also get a waiver “when the financial interest is too remote or inconsequential to affect the integrity of an employee’s service.”

White House officials declined to say if Mr. Musk had been issued a waiver. Federal law requires, in most cases, that any waiver be made public. The White House has not responded to requests to release a copy of any waiver granted to Mr. Musk.

Walter Shaub, the former director of the Office of Government Ethics, said Mr. Musk and the Trump administration may try to argue that Mr. Musk is so wealthy, his conflicts related to pending financial matters are trivial by comparison.

Therefore, they would not “affect the integrity of the services” he is providing the federal government as a special government employee.

But Mr. Shaub said that was not a proper application of the law.

“They will try to argue if they issue him a waiver that he is too rich to be corrupted,” said Mr. Shaub, who was critical of Mr. Trump during his first term. “But the problem with that argument is that it’s a declaration that the wealthy are above the criminal law.”

## **Is Mr. Musk in the clear if he got an exemption?**

Mr. Eisen said that even if Mr. Musk is now designated as a special government employee and received an exemption at the proper time, it did not eliminate the ethics and legal problems.

Mr. Musk’s involvement in federal government operations appears to have been so extensive in recent weeks that it goes far beyond the traditional definition of a special government employee, Mr. Eisen said.

“I don’t think that what he is doing is consistent with the limited definition of what a special government employee is supposed to be,” Mr. Eisen said.

Moreover, he said, Mr. Musk’s financial interests across the federal government are so broad that any exemption would also be hard to justify.

**Eric Lipton** is an investigative reporter, who digs into a broad range of topics from Pentagon spending to toxic chemicals. [More about Eric Lipton](#)

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